

Message Text

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ACTION NEA-10

INFO OCT-01 EUR-12 ISO-00 CIAE-00 DODE-00 PM-05 H-01
INR-07 L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02
SS-15 USIA-06 OMB-01 AID-05 IO-13 /088 W
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P R 311138Z AUG 77

FM AMEMBASSY ISLAMABAD
TO SECSTATE WASHDC PRIORITY 3631

INFO AMEMBASSY ANKARA

AMEMBASSY COLOMBO

AMEMBASSY DACCA

AMEMBASSY KABUL

AMCONSUL KARACHI

AMCONSUL LAHORE

AMEMBASSY NEW DELHI

AMEMBASSY PARIS

AMEMBASSY TEHRAN

CINCPAC

CONFIDENTIAL SECTION 1 OF 2 ISLAMABAD 8894

CINCPAC FOR POLAD

E.O. 11652: GDS

TAGS: PK, PINT

SUBJECT: PNA LEADERS CALL FOR IMMEDIATE TRIAL OF BHUTTO

REF: ISLAMABAD 8794

1. IN AN IMPORTANT SHIFT OF TACTICS, MAJOR PNA LEADERS ON AUGUST 30 CALLED FOR THE PRE-ELECTION TRIAL OF FORMER PRIME MINISTER BHUTTO. SINCE THE JULY FIFTH MILITARY TAKE-OVER, PNA LEADERS HAVE STATED THAT BHUTTO SHOULD CONTEST THE ELECTIONS AND HAVE PRIVATELY TOLD US THAT COURT CASES AGAINST THE FORMER PM SHOULD BEGIN AFTER A NEW GOVERNMENT IS INSTALLED.

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2. IN AN OBVIOUSLY CONCERTED STRATEGY, ASGHAR KAHN, MUFTI MAHMUD, PROFESSOR GHAFOOR AHMED, PIR OF PAGARO AND MAULANA MAOODODI - THE VENERABLE TITULAR HEAD OF THE JAMAT-I-ISLAMI - TOLD THE PRESS IN SEPARATE INTERVIEWS AUGUST 30 THAT BHUTTO SHOULD BE TRIED BEFORE THE ELECTION FOR HIS "MANY CRIMES." GHAFOOR, IN HIS STATEMENT, DISCOUNTED

SPECULATION THAT IF BHUTTO WERE ARRESTED THERE WOULD BE WIDESPREAD CIVIL DISORDERS. HE TOLD THE PRESS THAT "NO CRISIS WOULD CROP UP, NOT EVEN A RIPPLE ON THE SURFACE OF THE WATER." GHAFOOR DID SAY THAT "WE WANT MR. BHUTTO TO PARTICIPATE IN THE ELECTIONS AND SUFFER DEFEAT," BUT WE READ HIS COMMENT MORE AS AN OBLIGATORY NOD TO THE FORMER PNA STAND RATHER THAN A DEFINITIVE PNA POSITION.

3. ASGHAR KHAN EMPHASIZED THAT THE TRIAL SHOULD BE COMPLETED BEFORE ELECTION DAY. IN A SURPRISING DEPARTURE FROM THE PREVIOUS PNA POSITION, ASGHAR SAID THAT ALTHOUGH HE WOULD NOT DEMAND THE POSTPONEMENT OF ELECTIONS, THERE WAS NOTHING SACROSANCT ABOUT THE ELECTION DATE. IF ELECTIONS WERE DELAYED A FEW DAYS OR WEEKS, IT WOULD NOT MATTER. "WHAT IS FUNDAMENTAL IS TO HAVE A DECISION IN A BHUTTO COURT CASE BEFORE ELECTIONS."

4. ALL THE PNA LEADERS EMPHASIZED THAT THE TRIAL SHOULD BE HELD IN THE REGULAR COURTS, NOT IN A SPECIAL TRIBUNAL. THE PNA WANTS TO AVOID THE NEGATIVE CONNOTATIONS OF SPECIAL TRIBUNALS WHICH WERE USED DURING THE BHUTTO REGIME TO TRY THOSE HELD ON POLITICAL CHARGES.

5. THE AUGUST 30 STATEMENTS REPRESENT A FUNDAMENTAL SHIFT IN PNA TACTICS. AFTER JULY FIFTH, THE PNA CAREFULLY ASSESSED BHUTTO'S ROLE IN NATIONAL POLITICS AND DECIDED

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THAT ON BALANCE IT WOULD BE BETTER IF HE CONTESTED AND WERE DEFEATED THAN IF HE WERE TRIED WHICH WOULD INCREASE THE CHANCES HE WOULD BOYCOTT AND CAUSE CIVIL DISORDERS. THE EQUATION IN PNA EYES HAS NO CHANGED, AND THE LEADERSHIP HAS DECIDED TO TAKE A CALCULATED RISK AND CALL FOR A TRIAL AND JUDGEMENT BEFORE ELECTION DAY.

6. THERE ARE VARIOUS REASONS FOR THE CHANGED PNA SSESSION. THEY PROBABLY FIND DIVISIONS IN THE PPP ENCOURAGING AND BELIEVE THAT EVEN IF BHUTTO WERE INCARCERATED AND/OR CHOSE TO BOYCOTT, A TRUNCATED PPP WOULD STILL CONTEST WITH EITHER KAUSER NIAZI OR HAFEEZ PIRZADA AS LEADER. THE PNA COULD THEREFORE CLAIM THAT SINCE THE PPP PARTICIPATED, THE ELECTION WAS LEGITIMATE. ALSO, THE PNA MUST BE MORE CONFIDENT THAT BHUTTO'S ABILITY TO SEVERELY DISRUPT THE COUNTRY HAS SIGNIFICANTLY LESSENED AND THE MARTIAL LAW ADMINISTRATION'S (MLA) RESOLVE TO PREVENT SUCH DISORDERS IS STILL STRONG. GENERALLY, THE BENEFITS TO BE GAINED FROM A PUBLIC TRIAL, CONVICTION AND, THEY BELIEVE, DISCREDITING OF BHUTTO WILL OUTWEIGH ANY DISRUPTIONS HE MAY BE ABLE TO CAUSE.

7. THE PNA'S CALL FOR BHUTTO'S IMMEDIATE TRIAL HAS FURTHER ISOLATED GENERAL ZIA. FORMERLY HE COULD COUNT ON THE TACIT SUPPORT OF THE PNA IN HIS STRATEGY TO CONDUCT THOROUGH INVESTIGATIONS INTO THE WRONGDOINGS OF THE PREVIOUS REGIME BUT REFRAIN FROM BRINGING THE FORMER PM TO TRIAL UNTIL A NEW GOVERNMENT IS INSTALLED. NOW, IN ADDITION TO FENDING OFF THOSE IN THE MLA WHO WANT TO SEE BHUTTO TRIED IMMEDIATELY, AND MILITARY LEADERS WHO SEE A POSSIBILITY OF EXTENDING MARTIAL LAW IF BHUTTO BOYCOTTS AND VIOLENCE SPREADS, ZIA MUST ALSO CONTEND WITH PNA PRESSURE TO BRING BHUTTO TO TRIAL.

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8. AS NOTED REFTEL, THE JUDICIARY, ESPECIALLY THE LAHORE HIGH COURT, COULD ALWAYS PREEMPT MLA PLANS TO TRY BHUTTO BY ISSUING A WARRANT FOR HIS ARREST ON A NUMBER OF CHARGES. SPECULATION CONTINUES TO GROW THAT, HOWEVER IT IS ACHIEVED, BHUTTO WILL HAVE TO APPEAR IN COURT BEFORE ELECTION DAY.

9. JOURNALISTS WHO HAVE RECENTLY SEEN BHUTTO SAY THE FORMER PM ASSUMES THE ODDS FAVOR HIS ARREST BEFORE THE ELECTION. HE HAS TOLD THE JOURNALISTS, REFLECTING HIS PUBLIC COMMENTS, THAT IF HE IS TRIED, HE WILL RAISE LEGAL QUESTIONS OF "A FUNDAMENTAL NATURE." BY THIS HE MEANS THAT HE WILL CONTEND THAT THE MILITARY TAKE-OVER WAS CONFIDENTIAL

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UNCONSTITUTIONAL AND WOULD CDEMAND THAT THE COURTS FIRST DETERMINE WHETHER THE MILITARY CAN REMOVE HIM AND LEGALLY RULE IN HIS PLACE. SUCH A DEFENSE WOULD RAISE ISSUES THAT THE MLA WOULD OBVIOUSLY PREFER TO AVOID, SINCE IF THE COURTS FOUND AGAINST THE MARTIAL LAW AUTHORITIES, WHICH IS POSSIBLE, THE MILITARY LEADERSHIP WOULD, BY DEFINITION, BE GUILTY OF TREASON. SUCH A FINDING WOULD OBVIOUSLY CAUSE THE MILITARY TO REASSESS ITS PLANS TO HAND OVER POWER AS SCHEDULED.

10. IN OTHER POLITICAL EVENTS, THE ELECTION COMMISSION HAS FOUND THAT BHUTTO COHORT GHULAM MUSTAFA KHAR CANNOT RUN FOR THE NATIONAL ASSEMBLY BECAUSE OF A MARTIAL LAW REGULATION PROHIBITING ANYONE WHO HAS HELD A GOVERNMENT POSITION IN THE PAST TWO YEARS - KHAR WAS SPECIAL ADVISOR TO THE PM - FROM CONTESTING. FINALLY, GENERAL ZIA HAS ANNOUNCED HE WILL HOLD A PRESS CONFERENCE IN PINDI ON SEPTEMBER FIRST.
HUMMEL

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